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9
10 **BEFORE THE**
11 **BOARD OF REGISTERED NURSING**
12 **DEPARTMENT OF CONSUMER AFFAIRS**
STATE OF CALIFORNIA

13 In the Matter of the Accusation Against:

Case No. 2009-57

14 **DEBRA LEE BOSTIC**
15 5503 Foxtail Loop
Carlsbad, California 92010

A C C U S A T I O N

16 Registered Nurse License No. RN 361444
Nurse Practitioner License No. 6039
17 Nurse Practitioner Furnisher License No. 6039
Public Health Nurse Certificate No. 69525

18 Respondent.
19

20 Ruth Ann Terry, M.P.H., R.N. ("Complainant") alleges:

21 **PARTIES**

22 1. Complainant brings this Accusation solely in her official capacity as the
23 Executive Officer of the Board of Registered Nursing ("Board"), Department of Consumer
24 Affairs.

25 **License Histories**

26 2. On or about August 31, 1983, the Board issued Registered Nurse License
27 Number RN 361444 to Debra Lee Bostic ("Respondent"). The license will expire on June 30,
28 2009, unless renewed.

1 3. On or about June 26, 1992, the Board issued Nurse Practitioner License
2 No. 6039 to Respondent. The license will expire on June 30, 2009, unless renewed.

3 4. On or about November 14, 1994, the Board issued Nurse Practitioner
4 Furnisher License Number 6039 to Respondent. The license will expire on June 30, 2009, unless
5 renewed.

6 5. On or about October 31, 2005, the Board issued Public Health Certificate
7 No. 69525 to Respondent. The certificate will expire on June 30, 2009, unless renewed.

8 **STATUTORY PROVISIONS**

9 6. Section 2750 of the Business and Professions Code ("Code") provides, in
10 pertinent part, that the Board may discipline any licensee, including a licensee holding a
11 temporary or an inactive license, for any reason provided in Article 3 (commencing with Code
12 section 2750) of the Nursing Practice Act.

13 7. Code section 2761 states, in pertinent part:

14 The board may take disciplinary action against a certified or
15 licensed nurse or deny an application for a certificate or license for any of
the following:

16 (a) Unprofessional conduct, . . .

17 8. Code section 2762 states, in pertinent part:

18 In addition to other acts constituting unprofessional conduct within
19 the meaning of this chapter [the Nursing Practice Act], it is unprofessional
conduct for a person licensed under this chapter to do any of the following:

20 (a) Obtain or possess in violation of law, or prescribe, or
21 except as directed by a licensed physician and surgeon, dentist, or
podiatrist administer to himself or herself, or furnish or administer to
22 another, any controlled substance as defined in Division 10 (commencing
with Section 11000) of the Health and Safety Code or any dangerous drug
23 or dangerous device as defined in Section 4022.

24 (b) Use any controlled substance as defined in Division 10
(commencing with Section 11000) of the Health and Safety Code, or any
25 dangerous drug or dangerous device as defined in Section 4022, or
alcoholic beverages, to an extent or in a manner dangerous or injurious to
26 himself or herself, any other person, or the public or the extent that such
use impairs his or her ability to conduct with safety to the public the
27 practice authorized by his or her license.

28 . . .

1 (e) Falsify, or make grossly incorrect, grossly inconsistent, or
2 unintelligible entries in any hospital, patient, or other record pertaining to
the substances described in subdivision (a) of this section.

3 9. Code section 2764 provides, in pertinent part, that the expiration of a
4 license shall not deprive the Board of jurisdiction to proceed with a disciplinary proceeding
5 against the licensee or to render a decision imposing discipline on the license. Under Code
6 section 2811, subdivision (b), the Board may renew an expired license at any time within eight
7 years after the expiration.

8 10. Code section 118, subdivision (b), provides that the suspension,
9 expiration, surrender, or cancellation of a license shall not deprive the Board of jurisdiction to
10 proceed with a disciplinary action during the period within which the license may be renewed,
11 restored, reissued or reinstated.

12 11. Code section 2770.11 states:

13 (a) Each registered nurse who requests participation in
14 a diversion program shall agree to cooperate with the rehabilitation
15 program designed by a committee. Any failure to comply with the
16 provisions of a rehabilitation program may result in termination of
17 the registered nurse's participation in a program. The name and
18 license number of a registered nurse who is terminated for any
19 reason, other than successful completion, shall be reported to the
20 board's enforcement program.

21 (b) If a committee determines that a registered nurse,
22 who is denied admission into the program or terminated from the
23 program, presents a threat to the public or his or her own health
24 and safety, the committee shall report the name and license
25 number, along with a copy of all diversion records for that
26 registered nurse, to the board's enforcement program. The board
27 may use any of the records it receives under this subdivision in any
28 disciplinary proceeding.

1 12. Health and Safety Code Section 11173, subdivision (a), provides that no
2 person shall obtain or attempt to obtain controlled substances, or procure or attempt to procure
3 the administration of or prescription for controlled substances, (1) by fraud, deceit,
4 misrepresentation, or subterfuge; or (2) by the concealment of a material fact.

5 **COST RECOVERY**

6 13. Code section 125.3 provides, in pertinent part, that the Board may request
7 the administrative law judge to direct a licensee found to have committed a violation or
8 violations of the licensing act to pay a sum not to exceed the reasonable costs of the investigation
9 and enforcement of the case.

10 14. **DRUGS**

11 “**Morphine (MS)**” is a Schedule II controlled substance as designed by Health
12 and Safety Code section 11055, subdivision (b)(1)(M).

13 “**Fentanyl**” is a Schedule II controlled substance as designated by Health and
14 Safety Code section 11055, subdivision (c)(8).

15 **BACKGROUND INFORMATION**

16 **Respondent Was Terminated from the Board’s**
17 **Diversion Program as a Public Safety Threat**

18 15. On or about April 23, 2003, Respondent enrolled in the Board’s Diversion
19 Program. On November 20, 2004, the Diversion Evaluation Committee (“DEC”) terminated
20 Respondent from the Diversion Program as a public safety threat. The DEC found that
21 Respondent failed to comply with provisions of her rehabilitation plan in that she was
22 consistently non-compliant in regards to her ongoing use of alcohol and mood/mind altering
23 drugs despite numerous warnings and discussions and she consistently tested positive for alcohol
24 and/or mind/mood altering prescriptions while in Diversion and during her employment.

25 **FIRST CAUSE FOR DISCIPLINE**

26 **(Incorrect and/or Inconsistent Entries in Hospital and/or Patient Records)**

27 16. Respondent is subject to disciplinary action under Code section 2761,
28 subdivision (a), on the grounds of unprofessional conduct, as defined in Code section 2762,

subdivision (e), in that between June 8, 2002, and December 28, 2002, while employed by Spectrum Health Care Management Company in San Diego, California, and on assignment as a registered nurse in the Women and Pediatrics Nursing Department at the Naval Medical Center in San Diego, California, Respondent made grossly incorrect or grossly inconsistent entries in hospital and/or patient records. Respondent withdrew Morphine and/or Fentanyl, both controlled substances, from the hospital's Pyxis¹ machine, without a physician's order therefor, and failed to chart the administration of the drug in the patient's Medication Administration Record, or otherwise account for the wastage or disposition of the drug, as more particularly set forth below:

Date	Time	Patient	Drug	Dr. Orders	Charted
6/21	15:57	C.A.	Morphine 10 mg.	No	No
6/21	17:59	T.S.	Fentanyl 100 mcg.	No	No
7/26	08:16	S.F.	Morphine 10 mg.	No	No
7/26	13:47	L.J.	Fentanyl 100 mcg.	No	No
7/26	13:47	A.D.	Fentanyl 100 mcg.	No	No
8/19	17:58	J.T.	Fentanyl 100 mcg.	No	No
8/24	10:18	M.E.	Fentanyl 100 mcg.	No	No
8/24	13:16	M.Z.	Fentanyl 100 mcg.	No	No
8/24	14:53	T.B.	Fentanyl 100 mcg.	No	No
8/24	16:33	D.S.	Fentanyl 100 mcg.	No	No
8/24	20:46	J.W.	Fentanyl 100 mcg.	No	No
9/15	08:57	J.O.	Fentanyl 100 mcg.	No	No
9/15	08:58	V.C.	Fentanyl 100 mcg.	No	No
9/15	12:02	S.L.	Fentanyl 100 mcg.	No	No
9/15	18:18	V.H.	Morphine 10 mg.	No	No
9/20	09:15	C.S.	Morphine 10 mg.	No	No
9/20	10:28	S.S.	Fentanyl 100 mcg.	No	No

1. Pyxis is a trade name for the automated single-unit dose medication dispensing system that records information, including the patient name, physician orders, date and time the medication was withdrawn, and the name of the individual who withdrew the drug.

1	9/20	15:29	S.B.	Morphine 10 mg.	No	No
2	10/13	07:36	W.P.	Fentanyl 100 mcg.	No	No
3	10/13	10:03	R.C.	Morphine 10 mg.	No	No
4	10/13	18:03	R.C	Fentanyl 100 mcg.	No	No
5	10/27	08:53	J.B.	Fentanyl 100 mcg.	No	No
	Date	Time	Patient	Drug	Dr. Orders	Charted
6	10/27	14:15	H.R.	Fentanyl 100 mcg.	No	No
7	10/27	16:15	A.B.	Morphine 10 mg.	No	No
8	11/29	07:44	A.M.	Fentanyl 100 mcg.	No	No
9	11/29	09:29	S.H.	Fentanyl 100 mcg.	No	No
10	11/29	12:32	C.G	Fentanyl 100 mcg.	No	No
11	11/29	14:13	D.R.	Fentanyl 100 mcg.	No	No
12	11/29	16:11	T.B.	Fentanyl 100 mcg.	No	No
13	11/29	18:22	M.P.	Fentanyl 100 mcg.	No	No
14	12/1	07:29	S.A.	Fentanyl 100 mcg.	No	No
15	12/1	10:10	C.B.	Fentanyl 100 mcg.	No	No
16	12/1	13:43	M.M.	Fentanyl 100 mcg.	No	No
17	12/13	12:43	R.G.	Fentanyl 100 mcg.	No	No
18	12/13	07:25	R.T.	Fentanyl 100 mcg.	No	No
19	12/13	12:11	J.T.	Fentanyl 100 mcg.	No	No
20	12/13	14:51	C.O.	Fentanyl 100 mcg.	No	No
21	12/13	16:25	E.Y.	Morphine 10 mg.	No	No
22	12/13	17:43	M.M.	Fentanyl 100 mcg.	No	No
23	12/28	07:28	B.L.	Fentanyl 100 mcg.	No	No
24	12/28	08:54	L.D.	Fentanyl 100 mcg.	No	No
25	12/28	10:50	A.G.	Fentanyl 100 mcg.	No	No
26	12/28	12:01	A.G.	Fentanyl 100 mcg.	No	No
27	12/28	13:53	L.L.	Fentanyl 100 mcg.	No	No
28	12/28	15:48	C.H.	Fentanyl 100 mcg.	No	No
	12/28	17:20	B.P.	Fentanyl 100 mcg.	No	No

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SECOND CAUSE FOR DISCIPLINE

(Obtained and Used Controlled Substances)

17. Respondent is subject to disciplinary action under Code section 2761, subdivision (a), on the grounds of unprofessional conduct, as defined in Code section 2762, subdivision (a), in that between June 8, 2002, and December 28, 2002, while employed by Spectrum Health Care Management Company in San Diego, California, and on assignment as a registered nurse in the Women and Pediatrics Nursing Department at the Naval Medical Center, Respondent committed the following acts:

a. Respondent obtained unknown quantities of Morphine and Fentanyl, both Schedule II controlled substances, by fraud, deceit, misrepresentation, or subterfuge by obtaining the drugs from the hospital supplies, in violation of Health and Safety Code section 11173, subdivision (a), as more particularly set forth in paragraph 16, above.

b. Respondent self-administered unknown quantities of Morphine and Fentanyl, both Schedule II controlled substances, without legal authorization.

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PRAYER

WHEREFORE, Complainant requests that a hearing be held on the matters herein alleged, and that following the hearing, the Board of Registered Nursing issue a decision:

1. Revoking or suspending Registered Nurse License Number RN 361444 issued to Debra Lee Bostic;

2. Revoking or suspending Nurse Practitioner License No. 6039 issued to Debra Lee Bostic;

3. Revoking or suspending Nurse Practitioner Furnisher License No. 6039 issued to Debra Lee Bostic;

4. Revoking or suspending Public Health Certificate No. 69525 issued to Debra Lee Bostic;

5. Ordering Debra Lee Bostic to pay the Board the reasonable costs of the investigation and enforcement of this case, pursuant to Code section 125.3; and,

6. Taking such other and further action as deemed necessary and proper.

DATED: 9/16/08


RUTH ANN TERRY, M.P.H., R.N.

Executive Officer
Board of Registered Nursing
Department of Consumer Affairs
State of California

Complainant